

111TH CONGRESS
1ST SESSION

H. R. 1786

To establish a Best-in-Class Appliances Deployment Program.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2009

Ms. HARMAN introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To establish a Best-in-Class Appliances Deployment
Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. BEST-IN-CLASS APPLIANCES DEPLOYMENT**
4 **PROGRAM.**

5 (a) IN GENERAL.—The Secretary of Energy shall, in
6 consultation with the Administrator, establish and admin-
7 ister a program to be known as the “Best-in-Class Appli-
8 ances Deployment Program”.

9 (b) PURPOSE.—The purpose of the Best-in-Class Ap-
10 pliances Deployment Program is to reward retailers with
11 bonuses for increasing the sales of best-in-class high-effi-

1 ciency installed building equipment, high-efficiency con-
2 sumer electronics, and high-efficiency household appliance
3 models, with the goal of reducing life-cycle costs for con-
4 sumers, encouraging innovation, and maximizing energy
5 savings and public benefit. The program shall include
6 bounties under subsection (c) to retailers for the replace-
7 ment and recycling of old, inefficient, and environmentally
8 harmful appliances. The program shall also include bo-
9 nuses under subsection (d) to manufacturers for devel-
10 oping new Superefficient Best-in-Class Products.

11 (c) INCENTIVES FOR SALES OF BEST-IN-CLASS
12 PRODUCT MODELS.—

13 (1) SELECTION OF BEST-IN-CLASS PRODUCT
14 MODELS.—In establishing the program, the Sec-
15 retary of Energy shall use broad product classes and
16 select as qualifying Best-in-Class Product models no
17 more than the most efficient ten percent of the com-
18 mercially available product models in a class that
19 demonstrate, as a group, a distinctly greater energy
20 efficiency than the average energy efficiency of that
21 class of appliances. In selecting models, the Sec-
22 retary shall—

23 (A) identify commercially available models
24 in the relevant class of products;

1 (B) identify the subgroup and percentage
2 of those models (not greater than 10 percent)
3 that the Secretary believes share the distinctly
4 higher energy-efficiency characteristics that
5 warrant designation as best-in-class;

6 (C) specify the higher energy-efficiency
7 characteristic they share;

8 (D) announce the best-in-class designation
9 and the best-in-class bonus to be paid for each
10 sale of an eligible best-in-class model over a 3-
11 year period beginning on the date of the an-
12 nouncement;

13 (E) add other models in that class to the
14 list of best-in-class models eligible for the bonus
15 as they demonstrate their ability to meet the
16 higher-efficiency characteristics on which the
17 designation was made; and

18 (F) make bonus payments for qualifying
19 models sold during the 3-year period.

20 (2) REVIEW OF BEST-IN-CLASS STANDARDS.—

21 The Secretary shall review annually the product-spe-
22 cific criteria and the product models that qualify as
23 Best-in-Class Products and, after a 30-day comment
24 period, make upwards adjustments in the efficiency
25 criteria as required to maintain an appropriate ratio

1 of such product models to the total number of prod-
2 uct models in the product class.

3 (3) UPGRADE OF BEST-IN-CLASS PRODUCT ELI-
4 GIBILITY.—To the extent that the Secretary deter-
5 mines to increase the energy efficiency required to
6 qualify for best-in-class designation within any group
7 of product models, the Secretary shall—

8 (A) consider any Superefficient Best-in-
9 Class Product models that have been designated
10 pursuant to subsection (d);

11 (B) specify and announce the new higher
12 best-in-class standard;

13 (C) list those models that qualify as best-
14 in-class under the new higher standard;

15 (D) announce any change in the bonus
16 payment appropriate to increase the market
17 share of such best-in-class models, which shall
18 not be lower than any ongoing bonus payment
19 during the 3-year period for any prior designa-
20 tion of best-in-class models;

21 (E) pay the new bonus payment for any
22 models already qualifying under the earlier
23 best-in-class standard that continue to qualify
24 under the revised standard for a new 3-year-pe-
25 riod; and

1 (F) continue paying bonus payments at the
2 original level to any models that qualified at
3 that level but do not qualify at the new level for
4 the remainder of the 3-year period announced
5 with the original designation.

6 (4) SIZE OF INDIVIDUAL BONUS PAYMENTS.—

7 The size of each bonus payment shall be the product
8 of—

9 (A) an amount determined by the Sec-
10 retary; and

11 (B) the difference in energy consumption
12 as determined by comparing the energy used by
13 the qualifying product and the energy used by
14 the average product in the product class.

15 The Secretary shall determine the amount under
16 subparagraph (A) for each product type in consulta-
17 tion with State and utility efficiency program admin-
18 istrators as well as the Administrator, based on esti-
19 mates of the amount of bonus payment that would
20 provide significant incentive to increase the market
21 share of Best-in-Class Products.

22 (5) ELIGIBLE BONUS RECIPIENT.—(A) The
23 Secretary shall ensure that not more than 1 bonus
24 payment is provided to distributors and retailers per
25 unit of eligible models sold.

1 (B) In this section—

2 (i) the term “retailer” means an indi-
3 vidual, organization, or company that sells
4 products directly to end-users; and

5 (ii) the term “distributor” mean an indi-
6 vidual, organization, or company that sells
7 products in multiple lots and not directly to in-
8 dividual end-users.

9 (C) The Secretary may make distributors eligi-
10 ble to receive the best-in-class incentive for sales
11 that are not to the final end-user in addition to re-
12 tailers to the extent that the Secretary determines
13 that for a particular product category distributors
14 are well situated to increase sales of Best-in-Class
15 Products.

16 (d) BOUNTIES FOR REPLACEMENT AND RETIRE-
17 MENT OF EXISTING LOW-EFFICIENCY PRODUCTS.—

18 (1) The Secretary of Energy shall establish a
19 program to make a bounty payment for the recovery
20 and recycling of older operating low-efficiency appli-
21 ances that might otherwise continue in operation.

22 (2) The Secretary shall offer a bounty as an ad-
23 ditional incentive for retailers based on documenta-
24 tion that the sales of a Best-in-Class Product were
25 accompanied by the retirement and recycling of an

1 existing inefficient but still-functioning product by
2 the consumer to whom the Best-in-Class Product
3 was sold.

4 (3) The bounty payment shall be based on the
5 difference between the estimated energy use of the
6 product replaced and the energy use of an average
7 new product in the product class, discounted for the
8 estimated remaining lifetime of the product that was
9 recycled.

10 (4) The Secretary may specify that the avail-
11 ability of a product bonus related to sale of a Best-
12 in-Class Product is linked to the recovery and recy-
13 cling of an older working appliance, and may limit
14 the total payment to less than the sum of the bonus
15 and the bounty payments, if not doing so would
16 mean that the Nation's total energy use would oth-
17 erwise increase.

18 (5) The Secretary shall ensure that no product
19 for which a bounty is paid is sold or returned to ac-
20 tive service, but that it is instead destroyed, and re-
21 cycled to the extent feasible.

22 (6) The Secretary shall establish standards for
23 environmentally responsible methods of recycling, es-
24 pecially for products utilizing refrigerants.

1 (e) REWARDS TO MANUFACTURERS FOR DEVELOP-
2 MENT OF SUPEREFFICIENT BEST-IN-CLASS PRODUCTS.—

3 (1) IN GENERAL.—(A) The Secretary of Energy
4 shall establish a program to reward manufacturers
5 for the development and production of Superefficient
6 Best-in-Class Products.

7 (B) In this section, the term “Superefficient
8 Best-in-Class Product” means a product that—

9 (i) can be mass produced; and

10 (ii) achieves the highest level of efficiency
11 that the Secretary finds could be produced and
12 sold commercially to mass-market consumers.

13 (C) The Secretary may establish a standard for
14 a Superefficient Best-in-Class Product even if no ex-
15 isting product exists, if the Secretary has reasonable
16 grounds to conclude that a mass-producible product
17 could be made to meet that standard.

18 (D) The Secretary may also establish a super-
19 efficient best-in-class level that is met by one or
20 more existing Best-in-Class Product models if those
21 product models have distinct energy efficiency at-
22 tributes and performance characteristics that make
23 them significantly better, in the judgment of the
24 Secretary, than those product models qualifying as
25 best-in-class, but that represent not more than 10

1 percent of the currently qualifying best-in-class mod-
2 els.

3 (2) REWARD.—

4 (A) The bonus payment provided to a
5 manufacturer for the development and produc-
6 tion of a Superefficient Best-in-Class Product
7 shall be in addition to any bonus payments
8 made to retailers for best-in-class qualification.

9 (B) The amount of the bonus paid per unit
10 for qualifying Superefficient Best-in-Class
11 Product models as sold to retailers or distribu-
12 tors shall be the product of—

13 (i) an amount determined by the Sec-
14 retary; and

15 (ii) the difference in energy consump-
16 tion as determined by comparing the en-
17 ergy used by the qualifying product and
18 the energy used by the average product in
19 the product class.

20 (C) The Secretary shall determine the
21 amount under subparagraph (B)(i) for each
22 product type by considering the present value to
23 the Nation of the energy (and water or other
24 resources or inputs) saved over the useful life of
25 the product, and may adjust this value upward

1 or downward after consultation with State and
2 utility efficiency program administrators as well
3 as the Administrator.

4 (D) The adjustment may also be made
5 based on the effect of the reward on the sales
6 of products in different classes that may be af-
7 fected by this program.

8 (E) The incremental bonus payments shall
9 be applied to sales of any Superefficient Best-
10 in-Class Product for the first 3 years of its sale.

11 (3) COORDINATION OF INCENTIVES.—No prod-
12 uct for which Federal tax credit is received under
13 section 45M of the Internal Revenue Code of 1986
14 shall be eligible to receive bonus payments pursuant
15 to this subsection.

16 (f) REPORTING.—Each retailer, distributor, and
17 manufacturer participating in the program under this sec-
18 tion shall meet any reasonable request of the Secretary
19 of Energy for documentation of sales reported for purpose
20 of receiving bonuses or bounties, and shall report to the
21 Secretary, on a confidential basis for program-design pur-
22 poses—

23 (1) for retailers and distributors, the number of
24 units sold within each product type and model-spe-
25 cific wholesale purchase price on a monthly basis;

1 (2) for manufacturers, model-specific energy
2 consumption data; and

3 (3) for manufacturers, on an immediate basis,
4 concerning any product design or function changes
5 that affect the energy consumption of the unit.

6 (g) AUDITING REQUIREMENTS.—The Secretary of
7 Energy shall establish monitoring and verification proto-
8 cols to ensure that energy consumption tests for each
9 model are recorded correctly and that sales of energy-effi-
10 cient models are tabulated correctly by each claimant of
11 bonus or bounty payments under this section. In addition,
12 the Secretary may require reports from retailers on the
13 methods used to increase the sales of qualifying products
14 as a factor in determining the level and allocation of any
15 such payments.

16 (h) DISCLOSURE.—The Secretary of Energy may re-
17 quire that retailers and distributors disclose publicly and
18 to consumers their participation in the program under this
19 section.

20 (i) COST-EFFECTIVENESS REQUIREMENT.—

21 (1) DEFINITIONS.—In this subsection:

22 (A) COST-EFFECTIVENESS.—The term
23 “cost-effectiveness” means a measure of aggre-
24 gate savings in the cost of energy over the life-
25 time of the product as a ratio to the cost to the

1 Secretary of Energy of the rewards for the
2 product.

3 (B) SAVINGS.—The term “savings” means
4 the cumulative megawatt-hours of electricity or
5 million British thermal units of other fuels
6 saved by a product, in comparison to projected
7 energy consumption based on the efficiency per-
8 formance of displaced new product sales. The
9 amount of savings is the product of—

10 (i) the net number of best-in-class or
11 superefficient best-in-class pieces of equip-
12 ment, electronics, and appliances sold by a
13 retailer, manufacturer, or distributor in a
14 calendar year;

15 (ii) the savings during the projected
16 useful life of the pieces of equipment, elec-
17 tronics, and appliances; and

18 (iii) the impact of any documented
19 measures to retire and recycle low-per-
20 forming devices at the time of purchase of
21 highly-efficient substitutes.

22 (2) REQUIREMENT.—The Secretary shall make
23 cost-effectiveness a top priority in designing and ad-
24 ministering this section, except that the cost-effec-
25 tiveness of the rewards to manufacturers, in aggre-

1 gate, may be lower by this measure than that of the
2 rewards to retailers and distributors.

3 (j) AUTHORIZATION.—There are authorized to be ap-
4 propriated such sums as may be necessary for each of the
5 fiscal years 2010 through 2014 to the Secretary of Energy
6 for purposes of this section, of which not more than 10
7 percent for any fiscal year may be expended on program
8 administration.

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